

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 4:22-CV-00046-D**

JEREMY SOUTHERLAND, individually and)
on behalf of similarly situated persons,)
)
Plaintiff,)
v.)
)
)
PIRATE PIZZA, INC., and)
ALLEN LYLE,)
)
Defendants.)

JOINT MOTION TO STAY PENDING MEDIATION

The Parties respectfully request, as a matter of facilitating potential settlement of the claims in this lawsuit, that the Court approve a stay of these proceedings pending mediation, and in support thereof would show the Court as follows:

I.

Plaintiff, Jeremy Southerland, individually and on behalf of all similarly situated persons (“Plaintiff”), filed this suit on May 17, 2022, against Defendants, Pirate Pizza, Inc. and Allen Lyle (“Defendants”), asserting causes of action under the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.* (“FLSA”).

II.

Following discussions after Plaintiff filed this lawsuit, and as a means of facilitating potential settlement, the Parties have agreed to the following mediation procedure.

III.

Notwithstanding the Parties' agreement to attempt to resolve the issues raised in this lawsuit on a collective basis at mediation, the Parties acknowledge that, in the event this case does not settle, Plaintiff retains the burden to move for and obtain collective action certification, and Defendants reserve the right to oppose such motion, and to file their own motion to later decertify the collective action, to the extent the Court grants Plaintiff's motion.

IV.

The Parties respectfully request that the Court stay these proceedings (including Defendants' obligation to file an Answer or to otherwise respond to Plaintiff's Complaint) and cancel any upcoming in-Court scheduling and management conferences while they attempt to reach a settlement. If settlement is not achieved, the Parties request the Court set a date for a proposed scheduling order and case management conference after they notify the Court that settlement efforts were unsuccessful.

V.

The Parties have agreed to the following exchange of information to facilitate settlement discussions. Defendants will produce summary class-wide data of the miles driven and reimbursements paid at each of Defendant Pirate Pizza, Inc.'s Domino's Pizza stores during Defendants' period of ownership, broken down by year and by location, for the period three years prior to the date of the Court's Order approving the Stay.

VI.

The Parties shall mediate or engage in other good-faith negotiations within the next 150 days.

VII.

All materials exchanged by the Parties pursuant to this Motion shall be deemed CONFIDENTIAL SETTLEMENT MATERIALS. In the event that settlement is not reached, Plaintiff's counsel agrees to return the data and information produced pursuant to this Motion and shall not use that information for any purposes other than mediation.

VIII.

The Parties agree to share equally the costs and fees of the mediator, who is to be selected by agreement of the Parties.

IX.

The Parties agree that, in the event that settlement is not achieved over the duration of the stay, the Court shall set Defendants' response deadline at the scheduling order and case management conference following the end of the stay.

X.

Nothing contained in this Motion shall be construed as a factual or legal admission.

WHEREFORE, the Parties respectfully request that the Court enter an Order approving the agreements contained herein and staying this matter pending mediation.

Dated this 31st day of August, 2022.

Respectfully submitted,

/s/ Jacob J. Modla

Jacob J. Modla (NC Bar No. 17534)
The Law Offices of Jason E. Taylor P.C.
115 Elk Avenue
Rock Hill, SC 29730
Tel: 803-328-0898
Email: jmodla@jasonetaylor.com

Attorney for Plaintiff
Jeremy Southerland

/s/ Matthew R. Korn

Matthew R. Korn (By Special Appearance)
FISHER PHILLIPS LLP
1320 Main Street, Suite 750
Columbia, SC 29201
Tel: (803) 255-0000
Fax: (803) 255-0202
mkorn@fisherphillips.com

Lauren G. Goetzl (NC Bar No. 55939)
FISHER PHILLIPS LLP
227 West Trade Street, Suite 2020
Charlotte, North Carolina 28202

Tel. (301) 951-1536

Fax (301) 880-5031

lgoetzl@fisherphillips.com

*Local Civil Rule 83.1(d) Counsel for
Defendants*

Attorneys for Defendants

Pirate Pizza, Inc. and Allen Lyle

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 4:22-CV-00046-D**

JEREMY SOUTHERLAND, individually and)
on behalf of similarly situated persons,)
)
Plaintiff,)
v.)
)
)
PIRATE PIZZA, INC., and)
ALLEN LYLE,)
)
Defendants.)

CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2022, I electronically filed the foregoing **JOINT MOTION TO STAY PENDING MEDIATION** with the Clerk of Court using the CM/ECF system, which will send electronic notice to Plaintiff's counsel, Jacob J. Modla, via email to jmodla@jasonetaylor.com.

Respectfully submitted,

/s/ Matthew R. Korn
Matthew R. Korn
Attorney for Defendant
FISHER & PHILLIPS LLP